

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Joanna McColgan

(b) County of Residence of First Listed Plaintiff New Jersey
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Robert T Vance Jr, 100 South Broad Street, Suite 905,
Philadelphia PA 19110 215 557 9550**DEFENDANTS**Apple Vacations and AMR Resorts, and Hyatt Hotels
Corporation

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input checked="" type="checkbox"/> 4
Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions](#).

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 440 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 355 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input checked="" type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> Product Liability	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
			<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 890 Other Statutory Actions
				<input type="checkbox"/> 891 Agricultural Acts
				<input type="checkbox"/> 893 Environmental Matters
				<input type="checkbox"/> 895 Freedom of Information Act
				<input type="checkbox"/> 896 Arbitration
				<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
				<input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	IMMIGRATION	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> Habeas Corpus:	<input type="checkbox"/> 462 Naturalization Application	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 465 Other Immigration Actions	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence		
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General		
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty		
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> Other:		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC Section 1332**VI. CAUSE OF ACTION**Brief description of cause:
Personal injury**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE NONE

DOCKET NUMBER _____

DATE SIGNATURE OF ATTORNEY OF RECORD

October 19, 2022



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: New Jersey

Address of Defendant: Newtown Square, Pennsylvania

Place of Accident, Incident or Transaction: Cancun, Mexico

RELATED CASE, IF ANY:

NONE

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10/19/2022

Robert T Vance Jr.
Must sign here

37692

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
- 2. FELA
- 3. Jones Act-Personal Injury
- 4. Antitrust
- 5. Patent
- 6. Labor-Management Relations
- 7. Civil Rights
- 8. Habeas Corpus
- 9. Securities Act(s) Cases
- 10. Social Security Review Cases
- 11. All other Federal Question Cases
(Please specify): _____

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
- 2. Airplane Personal Injury
- 3. Assault, Defamation
- 4. Marine Personal Injury
- 5. Motor Vehicle Personal Injury
- 6. Other Personal Injury (Please specify): slip and fall
- 7. Products Liability
- 8. Products Liability – Asbestos
- 9. All other Diversity Cases
(Please specify): _____

ARBITRATION CERTIFICATION
(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Robert T Vance Jr, counsel of record or pro se plaintiff, do hereby certify:

Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

Relief other than monetary damages is sought.

DATE: 10/19/2022

Robert T Vance Jr.
Sign here if applicable

37692

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

United States District Court for the Eastern District of Pennsylvania

Joanna McColgan :
vs : Civil Action No.
Apple Vacations and AMResorts, and : Jury Trial Demanded
Hyatt Hotels Corporation :
:

Complaint

Plaintiff, Joanna McColgan, hereby brings a series of claims against Defendants, Apple Vacations and AMResorts, and Hyatt Hotels Corporation, of which the following is a statement:

Jurisdiction and Venue

1. This Court has original jurisdiction over this case pursuant to 28 U.S.C. Section 1332(a)(1) in that the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States.
2. Venue is properly laid in this judicial district pursuant to 28 U.S.C. Section 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this judicial district.

Parties

3. Plaintiff Joanna McColgan is a resident of the State of New Jersey.
4. Defendant Apple Vacations and AMResorts are resort-management services, travel and hospitality companies with headquarters at 7 Campus Boulevard, #100, Newtown Square, PA 19073. They are subsidiaries of Defendant Hyatt Hotels Corporation, a multinational hospitality company that manages and franchises luxury and business hotels, resorts, and

vacation properties. Hyatt's principal place of business is located at 150 North Riverside Plaza, 8th Floor, Chicago IL 60606.

5. At all times relevant to this action, Defendants owned, managed and/or maintained or had a duty to manage and/or maintain, both individually and by and/or through their agents, servants and/or employees, the Secrets Maroma Beach Riviera Cancun Resort Hotel, located at Carretera Chetumal-Puerto Juarez, Km. 306.5 Playa del Carmen, Quintana Roo, Mexico 77710.

Background Facts

6. Sometime prior to June 22, 2022, Ms. McColgan purchased a four-night stay at defendants' Secrets Maroma Beach Riviera Cancun Resort Hotel (the "Resort Hotel").

7. From June 22 through June 26, 2022, Ms. McColgan resided at the Resort Hotel in Room 2020, to which she had been assigned by defendants.

8. On June 25, 2022, at approximately 10:00 pm, Ms. McColgan slipped and fell on a step down that led from her bed to a patio. There is a several inch difference in height from the floor next to the bed to the floor below the step down.

9. Ms. McColgan's room had been constructed such that a light was supposed to automatically come on as soon as she approached the step down. It is apparent that the purpose of the light is to ensure that anyone walking in the room notices the step down, so as to avoid tripping and falling.

10. However, when Ms. McColgan approached the step down, the light did not come on. Moreover, the color of the floor in her room was such that the floor blended in with the step down, which made it impossible for her to differentiate the floor from the step down.

11. As a result of the fall, Ms. McColgan struck her head on the floor and lost consciousness for a period of time. When she regained consciousness, she immediately experienced dizziness, nausea, headaches, and general head pain. In addition, the left side of her body was severely bruised.

12. Ms. McColgan was crying hysterically as a result of the fall, but managed to call the reception desk of the Resort Hotel to report the incident. A member of the Resort Hotel staff and a doctor came to her room. She told them that the floor blended in with the step down, in response to which the staff member walked over to view the area where she had fallen, but said nothing about the fact that the light did not come on.

13. As a direct and proximate result of the fall, Ms. McColgan suffered serious injuries, including dizziness, nausea, headaches, head and body pain, concussion with loss of consciousness, back contusion, contusion and greater trochanteric bursitis of the left hip.

14. As a direct and proximate result of the fall and the severe injuries she sustained, Ms. McColgan is required to attend vestibular rehabilitation therapy twice each week, and was prescribed Diclofenac Sodium 1% Gel, Tizanidine HCL 2mg tablet, Methylprednisolone 4mg dose pack, Magnesium 400mg, and Vitamin B-2 100mg.

15. On June 25, 2022, defendants, individually and/or by and through their agents, servants and/or employees, maintained the Resort Hotel, including Room 2020, in such a manner where it became and/or caused a slip and fall hazard.

16. On June 25, 2022, the dangerous condition of the floor and step down and the malfunction of the light caused her to slip and fall and sustain the severe and permanent injuries as more fully described above.

17. On June 25, 2022, defendants, individually and/or by and through their agents, servants and/or employees, had a duty to maintain the Resort Hotel, including Room 2020, in a reasonably safe condition for persons lawfully at the Resort Hotel, such as Ms. McColgan.

18. On June 25, 2022, defendants, by and through their agents, servants and/or employees, disregarding said duty, failed to properly maintain the floor, step down and step down light in Room 2020, to such an extent that they were or became dangerous and unsafe for use, and as a direct and proximate result of this dangerous condition, Ms. McColgan slipped and fell and sustained the severe and permanent injuries described above.

19. Solely as a direct and proximate result of defendants' failure to properly maintain Room 2020, Ms. McColgan sustained the severe and permanent injuries to her person described above.

20. Solely as a direct and proximate result of the severe and permanent injuries to her person described above, Ms. McColgan incurred, and will continue to incur, damages, including:

- a. medical expenses;
- b. lost wages;
- c. past, present and future pain, inconvenience, embarrassment and mental anguish;
- d. past, present and future deprivation of the ordinary pleasures of life, loss of well-being and equanimity; and
- e. impairment of her overall health, strength and vitality.

Count I – Negligence

21. Plaintiff incorporates herein by reference as if set forth in full the averments of paragraphs 1-20, inclusive, of this Complaint.

22. The aforesaid incident occurred as a direct and proximate result of the careless, negligent, grossly negligent and reckless conduct of defendants, which consisted, *inter alia*, of the following particulars:

- a. failing to properly supervise the condition of Room 2020 at the Resort Hotel so as to furnish to Ms. Ms. McColgan a room free from hazards which were recognized or should have been recognized by defendants as causing or likely to cause serious physical harm to Ms. McColgan and others;
- b. failing to maintain Room 2020 in a safe condition to ensure that Ms. McColgan would not be caused to slip and fall as a result of the condition of the step down and step down light which existed and were known and/or should have been known to defendants;
- c. failing to properly inspect Room 2020, and in particular the step down and the step down light where Ms. McColgan was caused to slip and fall as a result of defendants' improper maintenance;
- d. failing to maintain the Resort Hotel and Room 2020 in good and safe condition for Ms. McColgan and others;
- e. failing to warn Ms. McColgan and other persons lawfully at the Resort Hotel of the dangerous condition of the step down and step down light in Room 2020 when defendants knew or should have known in the exercise of ordinary care that said warning was necessary to prevent injury to Ms. McColgan;
- f. allowing the step down and the step down light to remain in a dangerous condition for an unreasonable length of time;
- g. failing to expect that Ms. McColgan would not discover or realize the danger in Room 2020, or would fail to protect herself against it;

h. failing otherwise to comply with the applicable laws, ordinances and regulations of the municipality of Playa del Carmen, the state of Quintana Roo, and the applicable laws and regulations of Mexico;

i. otherwise failing to exercise the degree of care required under the circumstances;

and

j. otherwise being negligent.

23. As a direct and proximate result of the aforesaid conduct and breach of care of defendants, Ms. McColgan sustained the injuries, losses and damages which are more fully described above, without any negligence of Ms. McColgan contributing thereto.

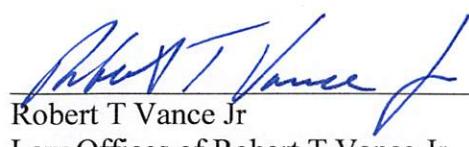
24. As a direct and proximate result of the aforesaid conduct and breach of care of defendants, Ms. McColgan suffered great pain and anguish, both in mind and body, and will in the future continue to suffer. She further expended and will expend and become liable for large sums of money for medical care and services, endeavoring to become healed and cured of said injuries.

Jury Demand

25. Ms. Colgan demands a trial by jury.

WHEREFORE, Plaintiff, Joanna McColgan, hereby demands judgment in her favor and against defendants, jointly and/or severally, in such an amount as will fairly and adequately compensate her for her injuries, losses and damages as alleged herein, costs of suit, pre-judgment

interest, post-judgment interest, and for such other and further relief as the Court deems appropriate.



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